

**2ESSB 6508** - H AMD TO WAYS COMM AMD (H-5513.1/10) **1460**

By Representative Ross

NOT ADOPTED 3/04/2010

1 On page 2, after line 2 of the striking amendment, insert the  
2 following:

3 "(3) In an action under RCW 4.20.010 against a small business as  
4 defined in RCW 19.85.020 that is based on a parent's significant  
5 involvement in an adult child's life, the liability of the small  
6 business is several and not joint."

7  
8 On page 2, after line 36 of the striking amendment, insert the  
9 following:

10 "(5) In an action under this section against a small business as  
11 defined in RCW 19.85.020 that is based on a parent's significant  
12 involvement in a child's life, the liability of the small business is  
13 several and not joint."

14  
15 On page 4, line 8 of the striking amendment, after "death" insert  
16 "."

17 (5) In an action under this section against a small business as  
18 defined in RCW 19.85.020 that is based on a parent's significant  
19 involvement in a child's life, the liability of the small business is  
20 several and not joint"

21  
22 On page 5, after line 12 of the striking amendment, insert the  
23 following:

24 "(6) In an action under this section against a small business as  
25 defined in RCW 19.85.020 that is based on a parent's significant  
26 involvement in a child's life, the liability of the small business is  
27 several and not joint.

1

2       **Sec. 5.** RCW 4.22.070 and 1993 c 496 s 1 are each amended to read  
3 as follows:

4       (1) In all actions involving fault of more than one entity, the  
5 trier of fact shall determine the percentage of the total fault which  
6 is attributable to every entity which caused the claimant's damages  
7 except entities immune from liability to the claimant under Title 51  
8 RCW. The sum of the percentages of the total fault attributed to at-  
9 fault entities shall equal one hundred percent. The entities whose  
10 fault shall be determined include the claimant or person suffering  
11 personal injury or incurring property damage, defendants, third-party  
12 defendants, entities released by the claimant, entities with any other  
13 individual defense against the claimant, and entities immune from  
14 liability to the claimant, but shall not include those entities immune  
15 from liability to the claimant under Title 51 RCW. Judgment shall be  
16 entered against each defendant except those who have been released by  
17 the claimant or are immune from liability to the claimant or have  
18 prevailed on any other individual defense against the claimant in an  
19 amount which represents that party's proportionate share of the  
20 claimant's total damages. The liability of each defendant shall be  
21 several only and shall not be joint except in the following  
22 circumstances:

23       (a) A party shall be responsible for the fault of another person  
24 or for payment of the proportionate share of another party where both  
25 were acting in concert or when a person was acting as an agent or  
26 servant of the party.

27       (b) If the trier of fact determines that the claimant or party  
28 suffering bodily injury or incurring property damages was not at  
29 fault, the defendants against whom judgment is entered shall be  
30 jointly and severally liable for the sum of their proportionate shares  
31 of the ~~((claimants))~~ claimant's total damages, except as otherwise  
32 provided in RCW 4.20.020, 4.20.046, 4.20.060, and 4.24.010.

33       (2) If a defendant is jointly and severally liable under one of  
34 the exceptions listed in subsections (1)(a) or (1)(b) of this section,

1 such defendant's rights to contribution against another jointly and  
2 severally liable defendant, and the effect of settlement by either  
3 such defendant, shall be determined under RCW 4.22.040, 4.22.050, and  
4 4.22.060.

5 (3)(a) Nothing in this section affects any cause of action  
6 relating to hazardous wastes or substances or solid waste disposal  
7 sites.

8 (b) Nothing in this section shall affect a cause of action arising  
9 from the tortious interference with contracts or business relations.

10 (c) Nothing in this section shall affect any cause of action  
11 arising from the manufacture or marketing of a fungible product in a  
12 generic form which contains no clearly identifiable shape, color, or  
13 marking."

14

15 Renumber the remaining sections consecutively and correct internal  
16 references accordingly.

17

**EFFECT:** Provides that joint and several liability does not apply  
to small businesses in actions under the wrongful death and  
survival statutes that are based on a parent's significant  
involvement in a child's life. Defines "small business" as any  
business entity that is owned and operated independently from all  
other businesses and that has fifty or fewer employees.

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